

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

PJM Interconnection, LLC

Docket No. ER18-1314-000

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**COMMENTS AND PROTEST  
SUBMITTED ON BEHALF OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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Pursuant to Rule 211 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 C.F.R. § 385.211, the Public Utilities Commission of Ohio (PUCO) submits the following comments and protest in response to PJM Interconnection, L.L.C.'s (PJM)'s April 9, 2018 proposed revisions to its Reliability Pricing Model (RPM) rules in its Open Access Transmission Tariff (OATT) pursuant to Section 205 of the Federal Power Act (FPA). PJM proposes to address the impact of supply-side state subsidies on just and reasonable RPM prices by adoption of either a capacity repricing or extension of the minimum offer price rule (MOPR). The PUCO recommends that the Commission decline to approve PJM's filing. Rather, PJM should retain the existing RPM construct as PJM has failed to meet its burden to demonstrate that

its two proposed options are just and reasonable under the requirement of Section 205 of the FPA.<sup>1</sup>

## **I. EXECUTIVE SUMMARY**

The PUCO recommends that the Commission reject PJM's recommended OATT revisions for either capacity repricing or an extended MOPR and to maintain status quo in RPM:

- The Commission, state commissions and other parties have taken significant steps to resolve perceived capacity market design deficiencies that have not been fully implemented. Yet, in less than three years, PJM is again before the Commission proposing another significant overhaul of the capacity market under far less certain circumstances.
- While PJM has provided information on the price suppression effect of subsidies, it has not similarly substantiated the level of penetration of state subsidized resources that would trigger the need to depart from the status quo with another major overhaul of RPM.
- Furthermore, the PUCO notes that there is no analysis as to the cost impacts of either proposed option on load.
- The PUCO believes that a better and more efficient course of action would be for PJM to maintain the status quo until a direct path to addressing state subsidies, if at all, can be determined.

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<sup>1</sup> 16 U.S.C. § 824d(a) and (e).

## II. BACKGROUND

In its filing, PJM states that its region is seeing increased participation of resources receiving out-of-market state revenues and requests that FERC take action to assure just and reasonable rates.<sup>2</sup> PJM posits that, “Thus the question raised by PJM’s filing in this case is not whether states have the right to act but instead how the wholesale market should respond to such actions . . .”.<sup>3</sup> To this end, PJM has proposed two alternatives that it believes are just and reasonable: Capacity Market Repricing or in the alternative Extended MOPR (MOPR-X). Capacity Repricing, the preferred PJM approach, is a two stage process whereby in the first stage state-subsidized units are cleared at their “subsidized” offers and, therefore, committed. In the second stage, the state-subsidized units are reset to their “competitive” offers in order to determine the auction clearing price for all resources.<sup>4</sup> PJM states that this methodology “accommodates” state actions. MOPR-X, the preferred approach of PJM’s Independent Market Monitor (IMM), forces all state-subsidized units to make “competitive” offers prior to determining whether such offers clear the auction and, therefore in the IMM’s opinion, state actions are mitigated.<sup>5</sup>

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2 PJM Interconnection, L.L.C. filing in FERC Docket ER18-1314, p. 3.

3 *Id.* at 4.

4 *Id.* at 51-53

5 *Id.*

### III. COMMENTS

#### A. Need to address state subsidies has not been substantiated

The PUCO avers that price suppression in the capacity market is not as clear of a threat to reliability as was the extreme weather experience of PJM prior to its Capacity Performance market design. The PUCO notes that after a significant period of debate, a major overhaul of PJM's RPM occurred in June 2015 when the Commission approved tariffs implementing new Capacity Performance rules. As the Commission is aware, Capacity Performance provides generators with incentives to perform when required or to face penalties.<sup>6</sup> As mentioned previously, RPM is transitioning to 100 percent Capacity Performance in the 2020-2021 Delivery Year. Yet, in less than three years and before the real performance implications of Capacity Performance are in full force, PJM is before the Commission proposing another significant overhaul of the capacity market under far less certain circumstances. Additionally, on April 30, 2018, PJM posted a new report to its website regarding fuel security and outlining further potential changes to its capacity market.<sup>7</sup>

In this filing, while PJM has provided information regarding its perceived price suppression effect of subsidies, it has not similarly substantiated the level of penetration of

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<sup>6</sup> *PJM Interconnection, L.L.C.*, Order on Proposed Tariff Revisions, 151 F.E.R.C. ¶ 61,208, at P 6-7 (2015).

<sup>7</sup> *PJM Interconnection, L.L.C.*, *Valuing Fuel Security*, <http://www.pjm.com/-/media/library/reports-notices/special-reports/2018/20180430-valuing-fuel-security.ashx> (last visited April 30, 2018).

state subsidized resources that would trigger the need to depart from the status quo with another major overhaul of RPM. Does the participation of 1,000 MW, 5,000 MW, or more out of PJM's system-wide 178,807 MW of generation offered in RPM<sup>8</sup> result in wholesale rates that are unjust or unreasonable? PJM states that based on the 2017 Base Residual Auction, 3,079 MW of subsidized unforced capacity would have been subject to repricing<sup>9</sup> but this of course, does not count the entire universe of subsidized resources in PJM's RPM. The PUCO cannot determine from PJM's filing what level of subsidized resources actually moves the needle towards unjust and unreasonable RPM prices. In fact, PJM's Adam Keech states that the Capacity Repricing Proposal threshold of 5,000 MW for the entire PJM region is "... necessarily a matter of judgement. . .".<sup>10</sup> Until a more definitive analysis is completed, any action by PJM is premature and the PUCO recommends that the status quo should be maintained.

Furthermore, the PUCO notes that there is no analysis as to the cost impacts of either proposed option on load. Again, cost impact to load from Capacity Performance reforms was provided to the Commission. During the Capacity Performance proceeding, the Commission, state commissions, PJM, and other parties expended substantial time and

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<sup>8</sup> PJM Interconnection, L.L.C., *2020/2021 RPM Base Residual Auction Results*, <http://pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2020-2021-base-residual-auction-report.ashx?la=en> at page 17 (last visited April 30, 2018).

<sup>9</sup> PJM Interconnection, L.L.C., Attachment E., *Affidavit of Adam J. Keech*, filing in FERC Docket ER18-1314, ¶ 3..

<sup>10</sup> *Id.* at ¶ 4.

effort to ensure that increases in costs to load were offset by reliability benefits received. The PUCO recommends that at least the same time and effort be expended in this effort to determine that the actual costs to load are quantified and necessary to ensure a corollary reliability benefit.

## **B. PJM's Proposed Process**

The PUCO notes that PJM has taken the unusual step in this filing of presenting the Commission with two alternatives that it believes are just and reasonable; however, neither garnered super-majority stakeholder support. In fact, the highest level of stakeholder support was for the status quo.<sup>11</sup> Despite this, PJM and its Board, believing that action is necessary, moved forward with the unusual step of providing both alternatives for Commission consideration. PJM further requests that if the Commission does not fully accept either proposal but accepts one of the proposals subject to suspension and further proceedings, then the Commission proceed by identifying “the subset of issues for which it seeks an additional record and order a paper hearing on these issues.”<sup>12</sup> Further, in addition to the paper hearing, PJM requests that the parties are provided the option to “...use settlement judge procedures to address the identified issues.”<sup>13</sup>

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<sup>11</sup> See PJM Interconnection, L.L.C., *Capacity Construct Public Policy Senior Task Force Vote Results*, <http://www.pjm.com/-/media/committees-groups/task-forces/ccpstf/20171121/20171121-ccpstf-vote-results.ashx> (last visited April 30, 2018) (vote, 63.64% support for status quo).

<sup>12</sup> PJM Interconnection, L.L.C. filing in FERC Docket ER18-1314, p. 7.

<sup>13</sup> *Id.*

While the PUCO understands that the PJM stakeholder process can be difficult, we do not believe that a premature filing to the Commission is the right path to take; nor should the Commission allow for PJM stakeholder support for the status quo to be ignored due to PJM's process. Furthermore, the PUCO questions whether a paper hearing process and settlement judge procedures can be completed by the end of the year without the necessary information outlined previously. The PUCO believes that a better and more efficient course of action would be for PJM to maintain the status quo until a direct path to addressing state subsidies, if at all, can be determined.

#### **IV. CONCLUSION**

The PUCO recommends that the Commission reject PJM's current proposals and direct PJM to retain status quo in the capacity market. While PJM has provided information regarding its perceived price suppression effect of subsidies, it has not similarly substantiated the current level of penetration of state subsidized resources that would trigger the need to depart from the status quo in RPM. During the most recent reform of PJM's capacity market, the Commission, state commissions, PJM, and other parties expended substantial time and effort to ensure that increases in costs to load were offset by reliability benefits received. At a minimum, such a demonstration must occur before another major overhaul of the capacity market is adopted. As such, PJM has failed to meet its burden under Section 205 of the FPA to demonstrate that either option is just and reasonable; therefore, status quo must be maintained. The PUCO appreciates the opportunity to provide the Commission with comments in this docket.

Respectfully submitted,

/s/Thomas W. McNamee

**Thomas W. McNamee**

180 East Broad Street

Columbus, OH 43215-3793

614.466.4397 (telephone)

614.644.8764 (fax)

[thomas.mcnamee@puc.state.oh.us](mailto:thomas.mcnamee@puc.state.oh.us)

**Attorney for the**

**Public Utilities Commission of Ohio**

## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been served in accordance with 18 C.F.R. Section 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/Thomas W. McNamee

**Thomas W. McNamee**

Dated at Columbus, Ohio this May 7, 2018.



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Summary: Comments electronically filed by Ms. Tonnetta Scott on behalf of PUC